

ANALYTICAL REPORT

**HOW CAN UKRAINE HELP
UKRAINIAN PRISONERS
DEPORTED TO RUSSIA
RETURN HOME?**



How can Ukraine help Ukrainian prisoners deported to Russia return home? Analytical report / I. Vyshnevskia; ed. by O. Syniuk, O. Lunova — Kyiv, 2025. — P. 32.

The report contains an analysis of the practice of illegal deportation of prisoners from penitentiary institutions in the territories of Ukraine occupied after 24 February 2022 to places of detention in the Russian Federation. In particular, it outlines the methods and measures used by Russian authorities to deport prisoners, other violations and crimes committed against those prisoners, as well as the key challenges they face after their release and in the process of returning to Ukraine. The report contains recommendations to the national authorities on how to address the issues raised in the report.

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ZMINA is a Ukrainian human rights organisation that works to protect freedom of speech, combat discrimination, prevent torture and ill-treatment, support human rights defenders and civil society activists, document international crimes and protect the rights of war victims.

Website of the organisation:
zmina.ua



Protection for Prisoners of Ukraine is a Ukrainian NGO whose activities are aimed at preventing violations of prisoners' rights, combating torture and ill-treatment, and monitoring conditions in places of detention.

Website of the organisation:
ngoauu.org



The European Prison Litigation Network (EPLN) defends fundamental rights across the continent and advocates for a reduction in the frequency and duration of imprisonment. The organisation researches and analyses legislative changes and their impact on prisoners' rights and life behind bars.

Website of the organisation:
prisonlitigation.org

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INTRODUCTION

Human rights violations by the Russian Federation during its armed aggression against Ukraine have become systemic and widespread. One of these violations is the deportation of penitentiary institutions and the illegal deportation of prisoners from the temporarily occupied territories (hereinafter – the TOT) of Ukraine, which may constitute a war crime and/or a crime against humanity. Prisoners in this case are people in a particularly vulnerable position, as they have restrictions on the exercise of their rights related to the deprivation of liberty, and under these circumstances cannot fully take measures for their own protection, including legal protection.

The problem of forced transfers and deportation of Ukrainian prisoners dates back to 2014 when the occupation of Crimea and parts of the Donetsk and Luhansk regions began. Then, the RF started implementing measures aimed at relocating penal institutions and deporting convicts¹, and the scale of the problem only grew.

The situation became particularly acute after 24 February 2022, when Russia launched a full-scale armed aggression against Ukraine. The number of prisoners in the occupied territories has increased significantly due to the Russian occupation of new territories. In 2014, there were roughly 16,000 convicts in 36 penitentiary institutions in Donetsk and Luhansk regions, 29 of which were located in the combat zones or in the occupied territories, after February 2022, the number of institutions increased to 47, and the number of prisoners reached about 19,100².

The issue of deportation of closed institutions from the TOT of Ukraine has been the subject of research by human rights organisations. In 2023, experts from the Human Rights Centre ZMINA prepared an analytical note in which the consequences of the deportation of penitentiary institutions, pre-trial detention centres, medical institutions, boarding houses and rehabilitation centres were described in detail³. Particular attention is paid to the issue of deportation of prisoners, the difficulties they face when returning to Ukraine or other countries, as well as the legal and humanitarian challenges they face after their return.

In addition, the issue of assisting deported Ukrainian prisoners and returning them to Ukraine remains a key focus of national NGOs, such as the NGO Protection for Prisoners of Ukraine⁴, the Ukrainian Helsinki Human Rights Union⁵, and others, as well as international NGOs, such as the European Prison Litigation Network⁶.

1 Fedosiuk T. The Stolen Children: How Russia Attempts To Kidnap Ukraine's Future / International Centre for Defence and Security, February 2023: <https://icds.ee/en/the-stolen-childrenhow-russia-attempts-to-kidnap-ukraines-future/>

Analytical note "Deportation of custodial settings from occupied territories of Ukraine". – Kyiv, 2023. – P. 2-3: https://zmina.ua/wp-content/uploads/sites/2/2023/07/deportation_f_ukr_web.pdf

2 Protection of the rights of deported prisoners from the occupied territories of Ukraine: challenges and solutions / ZMINA, 02.08.2024: <https://zmina.info/columns/zahyst-prav-deportovanyh-uvyaznennyh-z-okupovanyh-terytorij-ukrayiny-vyklyky-ta-shlyahy-vyrishennya>

3 Analytical note "Deportation of custodial settings from occupied territories of Ukraine". – Kyiv, 2023. – P. 25: https://zmina.ua/wp-content/uploads/sites/2/2023/07/deportation_f_ukr_web.pdf

4 NGO Protection for Prisoners of Ukraine: <https://ngoauu.org/>

5 Ukrainian Helsinki Human Rights Union: <https://www.helsinki.org.ua/>

6 European Prison Litigation Network: <https://www.prisonlitigation.org/uk/>



The issue of a systematic solution to the problem of the return of Ukrainian citizens deprived of their liberty in accordance with Ukrainian law and deported to the territory of the Russian Federation remains open.

At the same time, Paragraph 4 of the Peace Formula of the President of Ukraine⁷ refers to the need to release prisoners and deportees and return them to the territory of Ukraine. So far, this point does not seem to be a basis for negotiations on the return of Ukrainian deportees from Russian custody.

The objective of this report is to investigate and analyse the illegal deportation of Ukrainian prisoners to the territory of the Russian Federation after 24 February 2022, to identify the methods and measures used by the Russian side to deport people, the key problems they face after returning to Ukraine, and to formulate recommendations to Ukrainian state authorities to address the outlined problems.

The analytical report covers the period from 24 February 2022 to November 2024.

The research methodology is based on a comprehensive approach, which includes a study of the process of deportation of prisoners from the temporarily occupied territories of Ukraine to the Russian Federation, as well as an analysis of the conditions in which these people were held. This report was prepared using data from over 400 surveys analysed by the NGO Protection for Prisoners of Ukraine. Additionally, the Human Rights Centre ZMINA documented data from open sources as well as conducted 8 in-depth surveys and 2 interviews with deported prisoners, which detailed individual testimonies about violations of their rights, including access to medical care, detention conditions and treatment by the occupation and Russian authorities. In addition, the research includes a study of the legal and humanitarian problems faced by deported prisoners during and after their return to Ukraine, which leads to the formulation of recommendations for improving the mechanisms for protecting the rights and rehabilitation of victims.

This analytical report examines the legal and humanitarian challenges faced both by people who were imprisoned under Ukrainian law and remained in the TOT of Ukraine, as well as those who were illegally detained by the Russian authorities after the beginning of the occupation of the territory of Ukraine.

Analytics tasks:

1. Study the scale and methods of illegal deportation of prisoners from the TOT of Ukraine.
2. Identify the key problems faced by deportees during their return to Ukraine.
3. Assess the consequences of violations of the rights of deportees for their reintegration.
4. Develop recommendations for improving legal and humanitarian mechanisms for the protection of victims.

7

Peace formula: <https://mfa.gov.ua/protidiya-agresiyi-rf/formula-miru>



LIST OF ABBREVIATIONS

- SIS – Schengen Information System
- SCES – State Criminal Executive Service of Ukraine
- SMS – State Migration Service
- GC IV – Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War
- CMU – Cabinet of Ministers of Ukraine
- UNHRC – United Nations Human Rights Committee
- IHL – International Humanitarian Law
- RF – Russian Federation
- TOT – Temporarily occupied territory of Ukraine
- TDCFC – Temporary detention centre for foreign citizens



SUMMARY

The illegal deportation of Ukrainian prisoners to the territory of the RF in the context of the armed aggression against Ukraine began in 2014 and escalated after 24 February 2022. Prisoners are among the most vulnerable categories of the population, who, in addition to restrictions related to serving their sentences, are subjected to systematic human rights violations during the deportation process, while detained within the RF, as well as during and after their return to Ukraine.

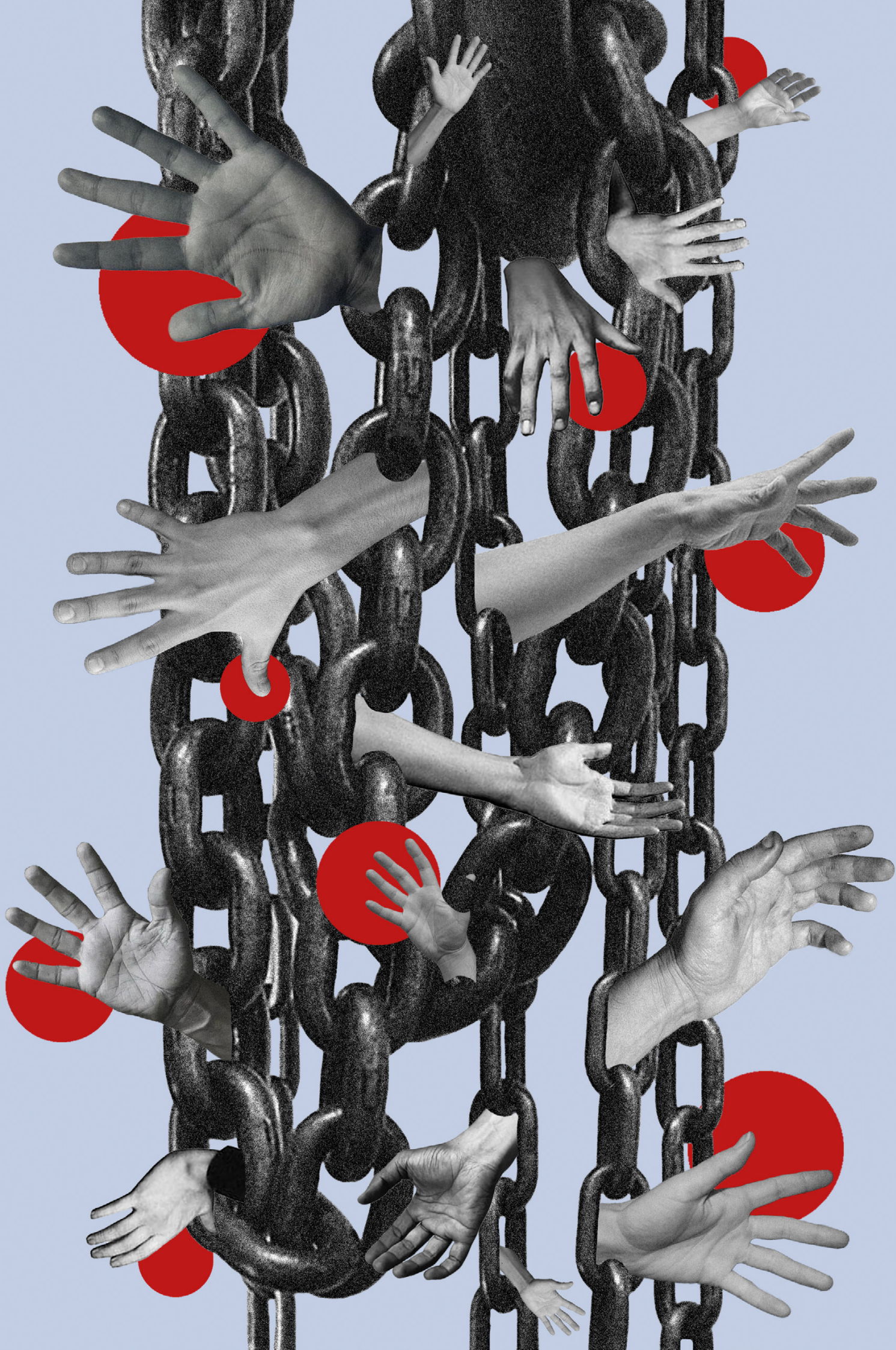
The deportation of Ukrainian prisoners from the TOT of Ukraine to the RF was accompanied by physical and psychological violence, confiscation of documents, ill-treatment, absence of proper medical care and coercion to obtain Russian citizenship. These actions constitute a gross violation of international humanitarian law, in particular the provisions of GC IV (1949), which prohibit the forcible transfer and deportation of civilians and prisoners from occupied territories.

International institutions, NGOs and the testimonies of persons deprived of their liberty have repeatedly confirmed systemic violations of international law in the context of the deportation of Ukrainian prisoners from TOT of Ukraine to the Russian Federation. This includes both people who have already been convicted by Ukrainian courts (with sentences that have entered into force or have not yet entered into force) and those who are under trial or investigation. The main problems are: transfer without legal grounds, inadequate conditions of detention, coercion to accept Russian citizenship, difficulties in returning to their homeland and the absence of access to legal aid. The scale of this crime, its humanitarian consequences and the need for an international investigation are also emphasised.

Problems with the return of Ukrainian citizens deported to the RF after serving their sentence include the absence of an appropriate procedure, which leads to legal uncertainty and delays in returning home. The paperwork is complicated by bureaucratic obstacles, and there is no financial support or integration mechanisms. In addition, former prisoners are often included in information systems and databases of wanted persons, including international ones, which restricts their freedom of movement, creating additional humanitarian problems.

The prisoners also faced the following difficulties: deportation to the RF without documents, detention in the TDCFC, inadequate conditions of detention, and restricted access to legal aid and medical services. After being released from detention in the Russian Federation, such people often remain in a situation of legal uncertainty, unable to return to Ukraine due to the absence of documents or difficulties with the procedure for confirming Ukrainian citizenship. Return routes through third countries are expensive, dangerous and time-consuming.

After returning to Ukraine, prisoners face a number of problems and bureaucratic obstacles: discrimination, absence of housing and support from the state, and the need to serve the remainder of their sentences imposed before the occupation, as the sentences of Russian and occupation courts are not recognised by Ukrainian courts due to legislative uncertainty, as well as difficulties in obtaining the necessary documents, which leads to social isolation, etc.





SECTION 1.

THE SITUATION IN THE TOT OF UKRAINE AND THE DEPORTATION OF UKRAINIAN PRISONERS TO THE TERRITORY OF THE RUSSIAN FEDERATION: GENERAL DESCRIPTION OF THE SITUATION AND LEGAL ASSESSMENT

1.1. The situation with penitentiary institutions after the beginning of the occupation

The process of occupation of Ukrainian territories, particularly in 2014, significantly changed the functioning of penitentiary institutions in the TOT of Ukraine, which led to serious human rights violations, including prisoners' rights. According to a 2014 report by the Kharkiv Human Rights Protection Group, numerous violations of international norms and standards for the treatment of prisoners occurred when Ukrainian penitentiary institutions were under the control of armed groups. This included ill-treatment, torture, deprivation of legal aid, and de facto absence of access to necessary medical care. Prisoners in these facilities were exposed to systematic abuse by the local administration, which acted without any control from international organisations⁸.

According to the 2022 report of the NGO Protection for Prisoners of Ukraine, the occupation authorities continued to violate the rights of prisoners by establishing new rules that contradict international norms⁹. Prisoners found themselves in conditions of limited opportunities for education and work, as well as medical care. Forced labour and restrictions on movement became common in these facilities. In addition, the prisoners who refused to cooperate with the occupation administration were subjected to additional repressions, including psychological pressure and physical violence.

The situation deteriorated significantly with the start of the full-scale invasion on 24 February 2022. According to the official data of the Ministry of Justice of Ukraine, as of the day of the invasion, 1,926 people were held in penitentiary institutions in the Mykolaiv and Kherson regions¹⁰. There were also prisoners in the Donetsk, Zaporizhzhia, Luhansk and Mykolaiv regions occupied after the start of the full-scale invasion.

It is important to note that some of these prisons served as specialised hospitals for people with serious infectious diseases. In particular, until 2022, prisons and pre-trial detention centres in the occupied Donetsk and Kherson regions were used to hold people with HIV, hepatitis C and tuberculosis (TB). This caused additional risks to the health of prisoners,

8 Report "Abductions in times of war: the situation in Ukraine" Kharkiv Human Rights Group, 2019: <https://library.khpg.org/index.php?id=1552984075>

9 Report of 2022 on human rights in Ukraine by the Ukrainian Helsinki Human Rights Union, 2022: <https://ngoauu.org/diyalnist/zvit-2022/>

10 Response of the Department for the Execution of Criminal Sentences of the Ministry of Justice of Ukraine No. 6/3-4-23/209piBC dated 04.01.2023.



as the necessary conditions for treatment and isolation of patients were not always provided, which could lead to a worsening of the epidemiological situation.

The prisoners who were held in the penitentiary institutions in the occupied territories of Ukraine faced torture and ill-treatment, poor conditions of detention, and there were frequent cases of attacks (shelling) on the institutions. It is advisable to focus on these violations in more detail.

(1) Torture and ill-treatment

Since the start of the full-scale Russian invasion, the NGO Protection for Prisoners of Ukraine has documented 152 cases of torture and other forms of ill-treatment of Ukrainian prisoners. The largest number of reports came from the Kherson region (84 cases) and the Kharkiv region (46 cases), with reports also coming from the Donetsk region (9), Kyiv region (5), Zaporizhzhia region (4) and Mykolaiv region (4). The longer the region was under occupation, the more cases of torture were reported. A significant number of reports were received after the de-occupation, as information about torture in the uncontrolled territories was limited or unavailable during the occupation¹¹.

The occupation administration of the penal colonies and pre-trial detention centres began to systematically use torture shortly after the occupation of Ukrainian territories, using it as a tool to obtain information and intimidate prisoners.

According to the information provided by former prisoners¹², after the occupation was established, new prison administrations were appointed, consisting of people loyal to the occupation authorities, who further committed violent and humiliating acts against the convicts. They not only used physical violence, but also worsened the conditions of detention, trying to demoralise and dominate the prisoners. Representatives of the occupation administrations behaved defiantly with the prisoners, looking for reasons to use violence; for example, beating them for refusing to dig trenches¹³ or sing the Russian anthem¹⁴. Amidst these repressions, punishment for minor infractions, such as being late to the canteen, became a common occurrence. In particular, prisoners were given a choice: either ten blows with a baton or a week in a punishment cell¹⁵. Such incidents only increased the atmosphere of fear and humiliation in which the convicts were placed.

Another part of this process was the deprivation of the convicts of their personal belongings during the deportation. For example, according to the interviewed prisoners, many of them were forced to collect their belongings without warning and leave them near the

11 "Nine Circles of Hell": Places of Detention in Ukraine during the Russian Occupation. March 2022 – December 2022. A series of publications on torture and organised violence (translated from English) / Vadym Chovhan, Mykhailo Romanov, Vasyl Melnychuk. 2023. – P. 76: <https://ngoauu.org/diyalnist/zvit-2023-devyat-kil-pekla/>

12 Stolen convicts / Novaya Gazeta. Europe, 10.10.2023: <https://novayagazeta.eu/articles/2023/10/10/kradenye-zeki-2>

13 Long Road to Freedom: How Russia Abducted 2,000 Ukrainian Prisoners / NGO AUU, 10.10.2023: <https://ngoauu.org/dovga-doroga-do-svobody-yak-rosiya-vikrala-2-tisyachi-ukra%D1%97nskix-polonenix/>

14 "You are Russians, you will receive passports". What happened to Ukrainian prisoners from Kherson, whom Russia for some reason took with it during the retreat / Zona.Media, 31.08.2023: <https://zona.media/article/2023/08/31/anabasis>

15 Occupation, deportation, return: the prison odyssey of Kherson prisoners / DW, 06.07.2023: <https://www.dw.com/uk/okupacia-deportacia-povernenna-turemna-odicsea-hersonskih-vazniv/a-66039493>



guardhouse, promising that they would be loaded into the trucks that accompanied the convoys. In reality, however, the colony staff took the most valuable items and threw away the rest. As a result, the prisoners deported to the new colonies did not have a change of clothes, shoes, hygiene products, etc.

(2) Inadequate conditions of detention

In the context of the armed conflict in Ukraine, the situation in penitentiary institutions in the TOT has deteriorated significantly. In the “official” places of detention, there is a systematic violation of the basic conditions for the normal functioning of such institutions. This is reflected in significant interruptions in the supply of water, electricity and heating, which makes it difficult for people deprived of their liberty to meet their basic living needs. The shortage of resources, including food, medical supplies and other basic necessities, has led to an even greater deterioration in the conditions of detention. This was also affected by the abandonment of places of detention by staff, which in some cases reached 80%, due to evacuation and refusal to cooperate with the occupation authorities.

In “unofficial” places of detention, the conditions were extreme. The absence of water, food, and toilet facilities, as well as limited access to natural and artificial light, are typical for such locations, which in turn violates fundamental human rights. These conditions are often combined with physical abuse, which could include torture and other forms of inhuman treatment. In addition, numerous reports indicate cases of extrajudicial killings by the Russian military in unofficial places of detention, which further confirm the high level of violence and violations of detainees’ rights.

(3) Indiscriminate shelling of penitentiary institutions

Between March and December 2022, there were numerous cases of shelling and damage to places of detention, both in the TOT and government-controlled areas. According to the Ministry of Justice of Ukraine, at least 22 prisons were damaged by military strikes, resulting in the deaths of 5 prison staff, 1 prisoner and injuries to 5 other people. However, these figures do not take into account casualties among prisoners in the TOT, which are often difficult or even impossible to accurately account for. Shelling and damage to penitentiary facilities have resulted in the destruction of infrastructure and the deaths of prisoners and staff. These military strikes have further complicated the situation and resulted in the deaths of detainees in penitentiary facilities.



1.2. Illegal deportation of prisoners to the Russian Federation

The illegal deportation of prisoners began in the first months of the occupation and became systematic: people were transferred from Ukrainian penitentiary institutions located in the TOT to colonies and prisons in the Russian Federation. The main purpose of these actions was to weaken the legal ties of prisoners with Ukraine, prevent access to protection under Ukrainian law, strengthen control over the occupied territories and impose Russian citizenship.

The deportations were accompanied by serious human rights violations, such as the absence of access to humanitarian aid, adequate medical support and other basic human needs. Many prisoners were subjected to psychological and physical violence and were not allowed to return to Ukraine even after completing their sentences.

Between 3 and 6 November 2022, a large-scale deportation of prisoners from penitentiary institutions located in the occupied territories of Kherson and Mykolaiv regions to the RF was recorded. The total number of deportees, according to preliminary estimates, was around 1,800-2,000 people. Among them, about 1,000 people had serious illnesses, including 384 people who were being treated for tuberculosis in Hola Prystan Correctional Penal Colony No. 7 and Snihurivka Correctional Penal Colony No. 5, as well as 704 people who were being treated in the multidisciplinary hospital of Dariivska Correctional Penal Colony No. 10. Most prisoners were deported to the Krasnodar, Rostov and Volgograd regions, as well as to the Republic of Mordovia within Russia. This displacement took place without due process of law or access to medical care, which is a gross violation of international humanitarian law¹⁶. The detainees were placed in the transport for a long transfer, which was often accompanied by harsh conditions: overcrowded vehicles, absence of normal sanitary conditions, poor food, and a lack of water. In practice, there were cases when prisoners were infected with tuberculosis during the transfer due to prisoners being placed in the same transport without any form of disease control.

As of 1 January 2024, only 308 former prisoners were returned to Ukraine, and 43 prisoners were escorted to Georgia¹⁷.

According to IHL, states are obliged to ensure respect for the legal regime for the protection of civilians during their displacement, in particular, to prevent unlawful displacement, which includes deportation and forced displacement. According to Article 49 of the GC IV (1949), the forced transfer of civilians from occupied territory is prohibited, with the caveat: the possibility of transferring civilians from a certain territory as part of a full or partial evacuation to ensure the safety of people or for particularly compelling military reasons. Occupational authorities are obliged to provide adequate accommodation, as well as satisfactory conditions in terms of sanitation, health, safety and nutrition when legally moving prisoners of the occupied population.

¹⁶ Murders and torture of civilians and military in the occupied Crimea / Kharkiv Human Rights Group, 31.07.2024: <https://khp.org/1608813869>

¹⁷ Kherson, occupation, deportation, prisoners, war / Krym.Realii, 01.01.2024: <https://ru.krymr.com/a/kherson-okkupatsiya-deportatsiya-zaklyuchennyje-voyna/32754286.html>



Special attention should be paid to the status of prisoners who have been deported by the Russian Federation to another territory. Protected persons serving pre-trial detention or sentences in prisons as a result of imprisonment for reasons related to the armed conflict should be treated humanely during the period of their detention. They are subject to special protection under Article 37 of the GC IV (1949). However, Article 76 of the same convention provides that persons detained in the occupied territory during an armed conflict should be held in the occupied country and, if convicted, should serve their sentence there. The interpretation of this provision leads to the conclusion that its provisions are based on the general principle of the prohibition of deportation provided for in Article 49 of the GC IV (1949). In this regard, it is quite reasonable to conclude that the prohibition of forced transfer and deportation also applies to persons deprived of their liberty before the occupation of the territory¹⁸.

At the same time, the legal status of deportees is regulated not only by international humanitarian law but also by the national legislation of Ukraine. However, Ukrainian legislation currently does not contain any special provisions that would regulate the legal status of prisoners forcibly transferred or deported during the armed conflict. This creates a gap in their legal protection and requires further improvement of the national legal framework.

In case it is proved that the act of transfer constitutes the international crime of deportation, the detainee must be recognised as a victim. The legal recognition of victim status is based on evidence that confirms the fact of forced displacement or deportation, including documentary evidence, eyewitness testimony or conclusions of the relevant authorities. In the framework of criminal proceedings, which must be initiated by the competent national authorities, such a person is officially granted victim status. In cases where such crimes are prosecuted by international or specialised tribunals, international cooperation may be used to collect evidence and identify perpetrators.

One of the most vivid examples of a legal assessment of illegal deportation is the decision of the UN Human Rights Committee on the complaint of Bratsylo and others v Russia¹⁹. The Committee considered violations of the rights of Ukrainian citizens who were deported from the occupied Crimea to the territory of the RF to serve their sentences. The Committee found that Russia had violated several fundamental provisions of the International Covenant on Civil and Political Rights, in particular Articles 9(1) and 15(1), which guarantee the right to liberty and security of a person. As the applicants' deportation was carried out without proper legal justification and contrary to international humanitarian law, it was found to be arbitrary.

The Committee noted that the deportation carried out by the occupying power has signs of illegality, as it violates the sovereignty of the country from which people were removed and their fundamental rights, in particular the right to freedom of movement. This is a violation of Article 12(4) of the International Covenant on Civil and Political Rights, which prohibits the forcible deportation of persons from their country without their voluntary consent. In addition, the Committee found that the forced granting of Russian citizenship

18 Analytical note "Deportation of custodial settings from occupied territories of Ukraine". – Kyiv, 2023. – P. 25: https://zmina.ua/wp-content/uploads/sites/2/2023/07/deportation_f_ukr_web.pdf

19 Views adopted by the Committee under Article 5(4) of the Optional Protocol in respect of communication No. 3022/2017: <https://rchr.org.ua/wp-content/uploads/2024/07/rishennya-za-skargoyu-braczylo-ta-inshyh-proty-rf.pdf>



to Crimean residents without their informed consent constitutes an attempt to change their national identity, in violation of Article 17 of the Covenant, which protects the right to privacy.

In the context of this decision, an important aspect is the absence of reasonable grounds for automatically granting Russian citizenship to persons who resided in the occupied territory and the absence of a proper procedure for renouncing such citizenship. This has made it difficult for people to make informed choices and exercise their rights. In the decision, the Committee emphasises that under conditions of occupation, the states exercising control over the territory must respect the rights of individuals, including the right to retain their nationality and to return to their territory.

The recognition of the illegality of deportation and imposition of citizenship also has important implications for the practice of international law. The UN Human Rights Committee has determined that these actions constitute discrimination on the basis of national origin and violations of international humanitarian law, as they are committed without sufficient grounds and with discriminatory effects on the victims. Such actions violate Article 26 of the Covenant, which prohibits discrimination on any grounds, and demonstrate the need to review the international approach to the legal consequences of occupation and deportation of people²⁰.

1.3. Consequences of the absence of documents confirming the identity and citizenship of Ukraine

After serving their sentences, prisoners who were deported from the TOT of Ukraine to the territory of the RF are released. Their way home largely depends on whether they have a passport of a citizen of Ukraine.

A particular problem is the release of Ukrainian prisoners in the Russian Federation without proper documents. This is often a consequence of the fact that in Ukraine, prisoners' identity documents are confiscated from them, which they are obliged to return after the end of their sentence. At the same time, representatives of the occupation administration often do not return documents, and in some cases even destroy the documents of Ukrainian citizens. This leads to further complications as in the territory of the Russian Federation, the individual is considered an "illegal migrant" after release and is effectively deprived of the opportunity to return home on their own or seek support from international or public organisations. However, sometimes the prisoners were given their Ukrainian passport and/or a copy of their passport that were contained within their personal files. The rest are released with the Russian-issued release certificates stating that the former prisoner is a citizen of Ukraine.

The absence of documents has repeatedly become a lever of influence on Ukrainian citizens to force them to obtain Russian citizenship. The Russian authorities are actively implementing a policy of providing Russian passports to prisoners. In particular, at the beginning of the occupation in Kherson, Ukrainian prisoners were offered to fill out applications

20 Russia is obliged to compensate for the discriminatory passportisation and deportation of Ukrainians from Crimea / Human Rights Council of Ukraine, 12.12.2024: <https://rchr.org.ua/publications/rosiya-zobovyzana-vidshkoduvaty-zbytky-za-dyskryminacziynu-pasportyzacziyu-ta-deportacziyu-ukrayincziv-z-krymu/>



for Russian passports. According to one former prisoner, about 15-20 people in his barracks out of 80 completed such applications, but they were not issued any passports while they remained in the territory of Ukraine.

After the deportation of prisoners to the Russian Federation, obtaining a Russian passport became more compulsory. In particular, in the Krasnodar Krai, where an estimated 250 Ukrainians were held, 70 of them agreed to obtain Russian citizenship. It should also be mentioned that without a Russian passport, prisoners were immediately transferred to other places of detention, such as the TDCFC (so-called “migration prisons”), after their release. During the interview, a former prisoner named Oleksii, noted that without a Russian passport, prisoners had no other way to get to the humanitarian corridor, which allows them to leave the Russian Federation for the territories controlled by Ukraine²¹.

“ When my sentence ended, I was not released. I was taken to the police department. It was 21 February 2023. My fingerprints were taken there and I was confronted with the fact that I had illegally crossed the border of the Russian Federation. I had a release certificate stating that I had been released from penal colony No. 7. Then I was taken to court, where I was fined 2000 rubles for illegally crossing the border of the Russian Federation, and taken to the immigration centre, where I was held until 4 August 2023. My documents included a certificate of release and a photocopy of my Ukrainian passport. You are released from this centre only if you have a passport, and if you don't have a passport of your own country, you have no other chance of getting out of there but to agree to obtain Russian citizenship and a Russian passport. That's exactly what I did. Then the NGO Protection for Prisoners of Ukraine helped me to return home. On 6 August 2023, I crossed the border and arrived in Ukraine²².

1.4. Detention in the temporary detention centres for foreign citizens: inadequate conditions, absence of medical care

The main reason for placing Ukrainian citizens in the TDCFC is the decision of Russian courts²³ to detain them in order to execute a deportation (expulsion) decision due to their alleged illegal stay in the territory of the Russian Federation²⁴, despite the fact that they were deported to the Russian Federation by its authorities. Such circumstances create formal grounds for detention and placement in the TDCFC.

21 Stolen convicts / Novaya Gazeta. Europe, 10.10.2023: <https://novayagazeta.eu/articles/2023/10/10/kradenye-zeki-2>

22 Testimony of convicted prisoner D., documented by the NGO Protection for Prisoners of Ukraine.

23 Resolution on imposition of an administrative penalty of the Apsheronsky District Court of Krasnodar Krai of 21 February 2023, case No. 5-138/2023.

24 Code of Administrative Offences of the Russian Federation of 30.12.2001 No. 195-F3: https://www.consultant.ru/document/cons_doc_LAW_34661/535af3a253c472402638b7696485e896a7866e5a/ Resolution of the Government of the Russian Federation of 30.12.2013 No. 1306 (ed. of 17.04.2024) “On Approval of the Rules for the Detention (Stay) in Special Institutions of the Ministry of Internal Affairs of the Russian Federation or its territorial body of foreign citizens and stateless persons subject to administrative expulsion from the Russian Federation in the form of forced removal from the Russian Federation, deportation or readmission”: https://www.consultant.ru/document/cons_doc_LAW_157232/



These centres became an important stage of return for many Ukrainians who had been deported to the territory of the Russian Federation. In the TDCFC located in South-western Russia, in particular, in Krasnodar Krai, prisoners were under the custody of Russian migration authorities. The TDCFC actually became an obstacle to former prisoners returning to Ukraine, as despite the completion of their sentences, people could not leave through border checkpoints until the issue of their documents was resolved. At the same time, the period of detention in these institutions could be extended to several months, as Russian legislation does not set requirements for the maximum period of stay in the TDCFC. In particular, in 2023, there were cases of people being held in such centres for up to 11 months.

“ On 28 November 2022, I was already in the Temporary Detention Centre for Foreign Citizens (17 Krasnopolianska Street, Volgograd region, the RF). I was being released at the end of my sentence. Three operatives took me outside the gates of the penal colony No. 19. There was a police car waiting for me. From the TDCFC I was put in the TDC (Temporary Detention Centre). All because I was protesting. I went on hunger strike four times because we were not allowed to contact our relatives in Ukraine. I was accused of inciting others to protest. Then I was kept separately from the others and incommunicado. I was held in solitary confinement from 4 June 2023 until 11 October 2023. Then I was taken to the border with Georgia²⁵.

Ukrainian detainees held in the TDCFC in the territory of the RF have repeatedly complained about inadequate conditions and ill-treatment. In particular, according to prisoners, Ukrainian citizens were held in small rooms measuring 5 by 5 metres, not suitable for long-term detention. The rooms did not have adequate ventilation and natural light, which made it difficult to stay and led to a significant deterioration in health. Prisoners were kept without the possibility of going for walks for several months (sometimes this restriction lasted for 10 months), which is a violation of basic standards of detention.

In addition to restrictions on freedom of movement, Ukrainian citizens were denied access to adequate food, which does not meet the needs of long-term detention. Detainees also reported having no access to medical care, which is particularly critical for people with chronic illnesses or injuries. In the TDCFC where Ukrainians are held, there is often the absence of necessary medical services, in particular for people with chronic diseases such as HIV/AIDS and tuberculosis, which has had a significant impact on the health of the detainees.

In addition, the prisoners were prohibited from communicating with the outside world, restricting their right to make phone calls and contact their relatives²⁶.

Some testimonies also point to the systematic use of physical violence and psychological pressure by the administration of the centres. This included beatings, intimidation, and coercion to confess to fictitious offences or to cooperate with Russian law enforcement agencies. Prisoners were held in isolation, without the possibility to appeal against their

²⁵ Testimony of the convict, documented by NGO Protection for Prisoners of Ukraine.

²⁶ Long Road to Freedom: How Russia Abducted 2,000 Ukrainian Prisoners / NGO AUU, 10.10.2023: <https://ngoauu.org/dovga-doroga-do-svobodi-yak-rosiya-vikrala-2-tisyachi-ukra%D1%97nskix-polonenix/>



conditions of detention or receive adequate legal protection, in violation of international human rights standards²⁷.

Such cases were documented in individual communications to the UN Committee against Torture and the UN Human Rights Committee, filed by the European Prison Litigation Network and the NGO Protection for Prisoners of Ukraine. In response to the organisations' communications, the Committee pointed out the need to provide medical care to prisoners in the TDCFC and granted the authors' request for interim measures²⁸.

The UN Human Rights Committee and the UN Committee Against Torture have repeatedly highlighted the violation of the human right to medical care in the TDCFC. The UNHRC demanded that medical care be urgently provided to a Ukrainian citizen who was "stuck" in the Russian detention facility indefinitely. The lawyer of the European Prison Litigation Network, who represents the man's interests before international protection bodies, noted that his client should have received the necessary medical care due to the presence of a number of serious illnesses, including HIV at stage 4B, hepatitis C and pleurisy due to tuberculosis. However, the refusal to provide appropriate treatment was justified by the fact that this disease was not included in the basic package of medical care for foreigners. This caused a significant deterioration in the man's health, which became the basis for an appeal to international bodies²⁹.

The absence of proper medical equipment and qualified staff in the TDCFC means that prisoners do not receive even the minimum medical care that is included in the basic package for foreigners, and this poses serious risks to their lives.

1.5. Release and routes of return to Ukraine

According to Article 135 of GC IV (1949), the RF is obliged to cover the costs of returning people released from penitentiary institutions to their places of permanent residence or, if necessary, to organise their return prior to the trip. However, in practice, many of those released from Ukraine do not receive any assistance from the Russian Federation to organise their return home. This violates Russia's obligations under international law, which stipulate that the detaining state must ensure the repatriation of the person or cover the costs of return. The absence of such support from the Russian Federation jeopardises the rights of the released persons, depriving them of the necessary assistance to return home safely and legally.

Returning to Ukraine is not an easy task. The routes of return for Ukrainian former prisoners from the Russian Federation to Ukraine are complex and dangerous, with risks of detention at the borders and numerous obstacles to safe return, which underscores the systemic human rights violations by the Russian authorities.

27 Ukrainian prisoners deported by Russia / Radio Liberty, 16.07.2024: <https://www.radiosvoboda.org/a/deportovani-rosiyeyu-ukrayin%CA%B9ki-vyazni/3303721>

28 Protection of the rights of deported prisoners from the occupied territories of Ukraine: challenges and solutions / Ukrinform, 16.08.2024: <https://www.ukrinform.ua/rubric-tymchasovo-okupovani/3895734-zahist-prav-deportovanih-uvaznenih-z-okupovanih-teritorij-ukraini-vikliki-ta-slahi-virisenna.html>

29 The UN has interceded for a seriously ill Ukrainian in a Russian TDCFC / AdvStreet, 26.10.2022: <https://advstreet.ru/news/oon-vstupilas-za-tyazhelobolnogo-ukraintsa-v-rossiyskom-tsvsig/>



One of the first possible routes for the return of prisoners was through the territory of Latvia and was considered promising, as it was widely used by civilians leaving the Russian Federation or the TOT of Ukraine. At the same time, Latvian border authorities have repeatedly recorded attempts to cross the border by undocumented persons. In February 2024, Latvian law enforcement agencies detained a group of 14 people from the Kherson region on suspicion of involvement in criminal activity and returned them to the territory of the Russian Federation³⁰. Russian migration authorities, in turn, sent the detainees to the TD-CFC. In June of the same year, a new incident occurred at the Latvian border, when a group of six former prisoners from Kherson were unable to cross for three days. The men were kept chained to each other in a bus while waiting for permission to cross the border. Eventually, this route was closed.

Several groups of former prisoners who had been deported or released from Russian penitentiaries after completing their sentences returned through the Kolotilovka-Pokrovka checkpoint on the border between Ukraine and Russia. In August 2024, this checkpoint was closed³¹.

Another way to return to Ukraine is through Georgia. The procedure for crossing the Georgian border depends on the availability of a passport of a citizen of Ukraine on the person returning. Those citizens who have the original documents can pass the control quickly, with almost no delays. In the absence of the original passport of a Ukrainian citizen, people are forced to wait in the buffer zone at the Kazbegi checkpoint until the Ukrainian authorities confirm their identity. After the verification is completed, Georgia grants entry, and within the next week, the deportees receive certificates of return from the Ukrainian embassy and can travel to Ukraine via Moldova.

The absence of identity documents entails a long stay for people in the buffer zone. People stay in the buffer zone between the Kazbegi (Georgia) and Verkhniy Lars (Russia) checkpoints for one to three months. In some cases, people whose citizenship is not confirmed by Ukraine are released after staying in the buffer zone for three months, but they cannot return to Ukraine.

Former prisoners are held in the basement of an administrative building in the buffer zone under the control of the Georgian authorities. The premises are not suitable for long-term stays, and the conditions in which former Ukrainian prisoners are forced to live can be described as not meeting basic human needs. People live without adequate food provided by the Georgian authorities (it is provided by volunteers), without medical care, adequate shelter and access to basic hygiene, and the absence of documents prevents them from purchasing necessary goods in Duty-Free. Moreover, the absence of legal aid, interpreters and the possibility to appeal their stay in the zone exposes them to additional threats. In addition, prisoners diagnosed with HIV are deprived of the opportunity to receive antiretroviral therapy. Also, former prisoners already on the territory of Georgia do not receive state support for living expenses, which leaves them to cover the costs of living to NGOs (such as Volunteers Tbilisi and Protection for Prisoners of Ukraine).

30 Occupation, deportation, return: the prison odyssey of Kherson prisoners / Deutsche Welle, 28.06.2023: <https://www.dw.com/uk/okupacia-deportacia-povernenna-turemna-odicsea-hersonskih-vazniv/a-66039493>

31 The only checkpoint on the border between Ukraine and the Russian Federation through which Ukrainian citizens staying in the territory of the Russian Federation can return to the territory controlled by Ukraine. On 06 August 2024, it was temporarily closed.



There is a case of a man who applied to the ECtHR with a complaint about a violation of his right to medical care while in the buffer zone. He suffered from severe toothache, but medical intervention was limited to taking ibuprofen, which did not provide relief. The man was also denied the opportunity to leave the basement to visit the dentist, and the conditions in the room were unsanitary, with low temperatures that caused kidney pain. Doctors rarely visited the prisoners, and his access to medical services was limited to assistance from volunteers.

Ukrainian citizens serving their sentences in the territories of Kherson and Mykolaiv regions, which were rapidly occupied after the start of Russia's full-scale invasion, were deported to Russian territory. There, the persons imprisoned on the basis of Ukrainian court sentences continued to serve their sentences. After their release, former prisoners who did not receive Russian passports find themselves back in the TDCFC. If Ukrainian citizens are released from these facilities, they face a new challenge: returning home.





SECTION 2.

KEY PROBLEMS OF RETURNING UKRAINIAN CITIZENS WHO SERVED THEIR SENTENCES WERE DEPORTED TO THE TERRITORY OF THE RUSSIAN FEDERATION AND RELEASED DUE TO THE EXPIRATION OF THEIR PRISON SENTENCES

2.1. Absence of a procedure for returning deported prisoners to Ukraine

One of the most urgent legal problems faced by Ukrainian citizens who have been deported to the territory of the Russian Federation is the absence of a proper procedure for returning to Ukraine. The absence of an effective legal procedure for the return of citizens, especially deportees, creates numerous legal and practical difficulties for the victims.

Support for the return process for those deported to the RF should be properly regulated at the intergovernmental level, in particular through ongoing dialogue and partnership programmes with international organisations.

In this context, it is important to note that we are not talking about readmission, but rather about the return procedure. Readmission is a legal mechanism used to return foreigners illegally staying on the territory of a state to the country of their citizenship or permanent residence. It is a standard procedure for persons who are in another country without proper documents or on the basis of violation of migration regulations.

The case of deported citizens of Ukraine differs from readmission in that these persons are in another country (the RF) due to forced displacement and deportation. Therefore, the return of these people is part of a humanitarian and legal procedure aimed at protecting their rights and ensuring the possibility of returning to their homeland after the end of the conflict or the end of the occupation. It is an act of justice and protection, not an administrative process, as in the case of readmission.

2.2. The absence of the ability to remotely obtain documents from the temporarily occupied territories of Ukraine or from the Russian Federation for returning to Ukraine

The issue of obtaining documents for the return to Ukraine of former prisoners during their stay in the RF or in the TOT of Ukraine, which should be regulated at the national level, has also not been resolved. At the same time, the problem with persons from the TOT of Ukraine is much deeper, as it is virtually impossible to leave even if you have a Ukraini-



an passport. Although there are some private carriers who agree to transport people with Ukrainian documents, it is extremely expensive, which makes it even more unaffordable for former prisoners. In some cases, people are forced to obtain Russian passports to be able to leave the TOT of Ukraine. However, not everyone is able to obtain a Russian passport – in particular, those who are registered or have lived in the Kyiv or Kirovohrad regions are denied.

According to the Ministry of Justice of Ukraine and the Embassy of Ukraine in Georgia, a significant number of previously convicted persons who were forcibly transferred to the territory of the Russian Federation after 24 February 2022 returned through the territory of Georgia and requested confirmation of Ukrainian citizenship. In particular, in 2023, 131 people applied for issuance of documents for return, and as of 2024, 188 people applied for them. At the same time, 47 people needed confirmation of Ukrainian citizenship in 2024, of whom 9 were denied. In 2023-2024, the Georgian side appealed to the Ukrainian competent authorities in 151 cases of confirmation of citizenship of previously convicted persons³².

The issue of returning to the territory of Ukraine of people who were deported to the territory of the Russian Federation after the start of the full-scale invasion could have been resolved by the CMU Resolution No. 1201 of 21 October 2022 “On the Implementation of a Pilot Project on Issuing an Identity Card for Return to Ukraine”³³, which was valid for one year but was not extended. An experimental procedure for issuing a certificate of return to Ukraine was introduced, which provided for the possibility of obtaining such a certificate based on an application in Ukraine by a parent or legal representative in respect of a minor, or a family member in respect of an adult who is outside the territory of Ukraine. The Procedure provides that in cases where a deported person has no family, other relatives or legal representatives, a certificate of return may be issued based on an official request from the Ministry of Reintegration of the Temporarily Occupied Territories to the State Migration Service³⁴. After receiving this certificate, Ukrainian citizens could return to Ukraine through third countries.

However, in April 2023, the Cabinet of Ministers adopted Resolution No. 339 of 18 April 2023³⁵. Paragraph 5 of this resolution made a reservation that the SMS shall issue an identity card for returning to Ukraine under CMU Resolution No. 1201 to citizens of Ukraine or those recognised by Ukraine as stateless or stateless persons deported after 24 February 2022 to the territory of the aggressor state permanently residing in Ukraine, whose freedom of movement is not restricted or has not been restricted, in particular, in the territory of a state recognised as the aggressor state, and who were forced to leave or abandon their place of residence through expulsion or other coercive actions from the territory in which they legally resided. This made it impossible for Ukrainian citizens held

32 Response to the request to the Embassy of Ukraine in Georgia No. 6135/19-194/501/3-161486 of 29.11.2024.

33 Resolution of the Cabinet of Ministers of Ukraine No. 1201 of 28 December 2022 “On Approval of the Procedure for Organising and Implementing Measures to Ensure the Rights of Persons in Places of Detention for the Period of Temporary Occupation of the Territory of Ukraine”: <https://zakon.rada.gov.ua/laws/show/1201-2022-%D0%BF#Text>

34 Government experiment: a chance for deported Ukrainians to return home / ZMINA, 14.11.2022: <https://zmina.info/columns/eksperyment-vid-uryadu-shans-dlya-deportovanyh-ukrayincziv-povernutysya-dodomu/>

35 Resolution of the Cabinet of Ministers of Ukraine No. 339 dated 12 April 2023 “On Approval of the Procedure for Organising and Conducting Measures for the Security of Persons in Places of Detention for the Period of Temporary Occupation of the Territory of Ukraine”: <https://zakon.rada.gov.ua/laws/show/339-2023-%D0%BF>



in the territory of the RF in the TDCFC to obtain certificates of return to Ukraine. Such a reservation directly violated Part 2 of Article 33 of the Constitution of Ukraine and Part 2 of Article 3 of Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms, according to which Ukrainian citizens cannot be deprived of the right to enter the territory of Ukraine.

In some cases, in particular through the checkpoint Kolotilovka-Pokrovka³⁶, there were two ways to leave: with original or photocopies of documents (which is impossible in most cases because the documents were destroyed or people were deprived of them) or by obtaining a conclusion on the identification of a foreign citizen issued by a territorial body of the Ministry of Internal Affairs in the territory of the RF, which is related to the Decree of the President of the Russian Federation No. 734 of 29 September 2023 "On the Procedure for Entering the Russian Federation and Exiting the Russian Federation of Citizens of Ukraine"³⁷.

Previously, the process of obtaining such a conclusion lasted 30-40 days after release, but if an application for it was submitted in advance, this process was accelerated. The prisoners who were transferred to Kerch applied for the conclusion and continued to serve their sentences. It should be noted that this document had the status of an identity document.

While waiting for a certificate of return, the former prisoners were accommodated in hotels or hostels in Kolotilovka or Kerch, where the costs of accommodation, food, and hygiene products were covered by the NGO Russia Behind Bars and the NGO Protection for Prisoners of Ukraine, which also provided telephone and food.

2.3. Absence of financial capacity to pay for returning to Ukraine

The Ukrainian state does not provide financial support mechanisms to cover the costs associated with the return of citizens to their homeland. This applies to both the processing of documents and support during the post-release integration period. The absence of funding creates a significant barrier for returnees, as they are often left without livelihoods, access to medical services and basic legal aid.

Former prisoners awaiting the possibility of returning to their homeland are often forced to stay for long periods of time in another state (for example, in a transit zone or near the border). The lack of financial support forces them to turn to NGOs to cover their living expenses, food, and possible transport costs. Most of these people find themselves in an extremely vulnerable situation, without access to basic means of subsistence and the financial capacity to cover these costs.

36 On 6 August 2024, the Kolotilovka-Pokrovka checkpoint ceased to operate, and it is not possible to return through it as of 1 January 2025.

37 Federal Law No. 438-FZ dated 14.11.2022 "On Amendments to the Federal Law 'On Citizenship of the Russian Federation'": <https://www.kremlin.ru/acts/bank/49839>



2.4. Entering former prisoners into SIS registers

In addition, former prisoners are entered into the Schengen Information System (SIS), which contains data on people who have ever entered the territory of Schengen countries and had problems with the law. As a result, people cannot travel outside the territory of Ukraine.

One such case is the situation of a former Ukrainian prisoner who was serving her sentence in a prison in Mariupol during the occupation of the city by Russian troops. After completing her sentence, she returned to the territory controlled by Ukraine. Subsequently, she intended to travel to Germany, where her husband and son live, choosing a route through Poland. However, her attempts to cross the Polish border were unsuccessful: she was denied entry twice. According to Polish border guards, the reason for the refusal was that her data had been entered into the SIS by the German side. The last refusal was recorded on 22 May 2024.

To resolve the situation, an appeal was initiated to the Polish authorities, who responded and confirmed that the applicant was not listed in national databases which could be grounds for an entry ban. At the same time, the response stated that Poland had not entered information about the applicant into the SIS, but the question of whether her data, which could have been entered by other countries, was available in the SIS remained open, as no clear confirmation or refutation had been received from the Polish side.



SECTION 3.

KEY ISSUES DURING AND AFTER RETURNING TO UKRAINE

During and after returning to the territory of Ukraine, former prisoners face a number of additional problems, including discrimination, absence of material support from the state, absence of procedures for obtaining relevant documents, detention for further serving their sentences, etc.

3.1. Detention for further serving a sentence

One of the biggest problems faced by prisoners after returning to Ukraine is detention for further serving their sentence. After the deportation of Ukrainian citizens to the territory of the RF, local courts or courts located in the TOT of Ukraine reviewed the remaining sentence, sometimes leaving it unchanged or, on the contrary, reducing the remaining sentence. According to the Department for the Execution of Criminal Sentences of the Ministry of Justice of Ukraine, since 24 February 2022, 39 convicted persons (as of 22 November 2024) who had served their sentences in institutions in the TOT of Ukraine but were unable to serve them in full due to the armed aggression of the Russian Federation against Ukraine have been detained and placed in penitentiary institutions after returning to the territory controlled by Ukraine³⁸.

This situation arose due to a legal conflict: the Russian side changed the conditions of the sentence, but Ukrainian legislation does not take into account such actions as grounds for release. As a result, the deported prisoners are actually 'punished twice'. Such cases are further complicated by the absence of a unified legal mechanism for regulating the status of these individuals, which causes legal and administrative conflict. To resolve this conflict, the Department for the Execution of Criminal Sentences of the Ministry of Justice of Ukraine sent a letter of instruction stating that a sample application was provided to penitentiary institutions to ensure the implementation of sentences against persons who served their sentences in the TOT of Ukraine and did not complete them due to armed aggression. This application allows individuals to apply to the court to resolve issues related to the crediting of sentences, including the time spent in the non-government-controlled territory or in the RF.

There have already been precedents in court practice when Ukrainian courts, at the request of penitentiary institutions, took into account both decisions of Russian and occupation courts and documents issued in the TOT of Ukraine when recalculating the term of serving a sentence. For example, after the occupation of Kherson, the sentence was reconsidered and reduced from 4 years and 6 months to 2 years and 7 months of imprisonment

38 Response to a request to the Department for the Execution of Criminal Sentences of the Ministry of Justice of Ukraine dated 29.11.2024.



with serving the sentence in a colony settlement by the decision of the Kerch City Court of the Republic of Crimea of 7 December 2023. In connection with this recalculation, the end of the sentence fell on 12 January 2024. When delivering its ruling by the Kovpakivskyi District Court of Sumy on 9 January 2024, the court counted the period from 12 July 2019 to 25 December 2023 as part of the sentence, determining that the sentence would begin on 30 December 2023³⁹. A similar decision was made on 27 May 2024 by the Kazankivskyi District Court of Mykolaiv Region in case 478/562/2⁴⁰.

However, such cases require appropriate legal regulation by the legislator. The Law Enforcement Committee of the Verkhovna Rada of Ukraine submitted two draft laws: raft Law of Ukraine No. 9579 of 7 August 2023 “On Amendments to the Criminal Code of Ukraine, the Criminal Procedure Code of Ukraine and Other Legislative Acts to Ensure Criminal Proceedings Impossible as a Result of the Armed Aggression of the Russian Federation against Ukraine, the Temporary Occupation of Certain Territories of Ukraine by the Russian Federation”⁴¹, and Draft Law of Ukraine No. 11265 dated 16 May 2024 “On Amendments to the Criminal and Criminal Procedure Codes of Ukraine to Improve the Procedure for Conducting Criminal Proceedings under Martial Law”⁴².

The content of these draft laws is that convicts who have not served their sentences due to the armed aggression against Ukraine or the temporary occupation may be released from further punishment by a court decision. This does not apply to those sentenced to life imprisonment or for crimes against the foundations of national security, peace and international law and order, if the time limits set by law have passed since the sentence was imposed. In addition, the court would take into account the period served under the procedure established by law and the period from the date when execution under the procedure established by law is impossible as a result of armed aggression against Ukraine, temporary occupation of certain territories of Ukraine, until the date of return of the person to the territory of Ukraine under the general jurisdiction of Ukraine. However, none of these draft laws has been adopted so far (No. 11265 was adopted as a basis, and No. 9579 was submitted for review), and the problem remains unresolved.

39 Ruling of the Kovpakivskyi District Court of Sumy in case No. 592/212/24 dated 09.05.2024: <https://reyestr.court.gov.ua/Review/116258763>

40 Ruling of the Kazankivskyi District Court of Mykolaiv Region in case No. 478/562/24 dated 27.05.2024: <https://reyestr.court.gov.ua/Review/119326183>

41 Draft Law of Ukraine No. 9579 dated 17.08.2023 “On Amendments to the Criminal Code of Ukraine, the Criminal Procedure Code of Ukraine and Other Legislative Acts on Ensuring Criminal Proceedings, the Implementation of Which Is Impossible as a Result of the Armed Aggression of the Russian Federation against Ukraine, the Temporary Occupation of Certain Territories of Ukraine by the Russian Federation”: <https://www.kmu.gov.ua/bills/proekt-zakonu-pro-vnesennya-zmin-do-kriminalnogo-kodeksu-ukraini-kriminalnogo-protseusualnogo-kodeksu-ukraini-ta-inshikh-zakonodavchikh-aktiv-shchodo-zabezpechennya-kriminalnikh-prova>

42 Draft Law of Ukraine No. 11265 dated 16.05.2024 “On Amendments to the Criminal and Criminal Procedure Codes of Ukraine to Improve the Procedure for Conducting Criminal Proceedings under Martial Law”: <https://itd.rada.gov.ua/billInfo/Bills/Card/44217>



3.2. Discrimination on the Russian-Ukrainian border

The Kolotilovka-Pokrovka checkpoint, which was closed in August 2024, had a volunteer humanitarian centre offering free psychological, legal and humanitarian assistance to Ukrainian citizens⁴³. However, in practice, access to these services for people released from places of deprivation of liberty was limited. This restriction created significant difficulties for returnees who found themselves without access to vital services at a critical time while at the border. The absence of psychological support, legal advice and humanitarian assistance increased their vulnerability, given their experience of detention and deportation.

Numerous complaints submitted by the NGO Protection for Prisoners of Ukraine to the Ministry of Reintegration of the Temporarily Occupied Territories of Ukraine did not lead to any changes. Despite the clear signs of violations of the rights of these people, the appeals had no impact on the policy or practice of providing assistance. The situation began to change after a meeting with a representative of the Ombudsman in the Sumy region, as a result of which former prisoners began to receive proper support (a place to sleep in shelters and food).

These positive changes are an important step towards ensuring fair treatment of former prisoners returning to Ukraine. However, there are still issues that need to be addressed. There is a need to ensure continued access to all types of assistance for returnees, regardless of their past, and to prevent the recurrence of discrimination. It is also necessary to continue monitoring the situation and cooperating with government agencies and human rights organisations to ensure that the rights of these people are respected and that they receive adequate support.

3.3. Absence of financial and housing support

Prisoners returning from illegal deportation face several problems that make it difficult for them to adapt to Ukraine. First of all, they are often unable to receive any financial assistance provided to other victims of the occupation or war. This is due to the absence of proper documentation, bureaucratic obstacles and gaps in the regulatory framework that do not take into account their specific status.

For persons who were deprived of their personal liberty as a result of armed aggression against Ukraine, a procedure is provided for obtaining assistance after the relevant fact is established.

Establishing the fact of deprivation of personal liberty as a result of armed aggression against Ukraine is regulated by current legislation, in particular, by the Resolution of the Cabinet of Ministers of Ukraine No. 2010 of 20 December 2021⁴⁴. The mechanism for implementing this process involves the appeal of the affected person or their legal repre-

⁴³ Every day, more than a hundred Ukrainians return to the government-controlled territory of Ukraine through the single checkpoint Pokrovka-Ukraine, Kolotilovka-Russia / KrasNews, 02.11.2023: <https://krasnews.com.ua/gromada/shhodnya-bilshe-sotni-ukrayincziv-povertayutsya-na-pidkontrolnu-terytoriyu-ukrayiny-cherez-yedynyj-punkt-propusku-pokrovka-ukrayina-kolotylivka-rf/>

⁴⁴ Law of Ukraine dated 26.01.2022 No. 2010-IX "On Social and Legal Protection of Persons in respect of whom the deprivation of personal liberty as a result of armed aggression against Ukraine and their family members has been established": <https://zakon.rada.gov.ua/laws/show/2010-20#Text>



sentative to the authorised body, which is the Ministry of Reintegration of the Temporarily Occupied Territories of Ukraine⁴⁵. Documents confirming the fact of unlawful deprivation of liberty should be attached to the appeal. Such evidence may include materials from official investigations, certificates from law enforcement agencies, protocols, medical reports or eyewitness testimony. However, this procedure does not work in practice for former prisoners, despite the established fact of their deportation to the territory of the RF.

The International Organisation for Migration (IOM) has provided financial assistance in the amount of UAH 10,800 to help the victims. When crossing the border through the Kolotilovka-Pokrovka checkpoint, all citizens were registered to receive this assistance. However, our fellow citizens who returned through this checkpoint faced discrimination: they were not registered for payments until numerous complaints were filed with the Ministry of Integration, IOM and the UN. Registration for benefits is now open for people crossing the humanitarian corridor through Belarus. However, for those returning through Georgia, registration for assistance is difficult. As explained by the responsible authorities, this can only be done at the border crossing, but most convicts return through Chisinau and Odesa, where there are no volunteer border crossing points. As a result, these people are deprived of the opportunity to receive this assistance.

In the context of determining the status of missing persons in special circumstances, the internal affairs bodies provide extracts from the registers only if there is evidence, such as official statements from relatives confirming the fact of disappearance. At the same time, there are cases of refusal to provide extracts to persons who have already returned to Ukraine and have submitted a request to the Ministry of Internal Affairs or the Ombudsman's Office, despite the existence of evidence of disappearance⁴⁶. These refusals are often justified by the need for additional checks or the absence of adequate evidence on the part of the applicants, which complicates the process of obtaining extracts and delays the registration of the status of missing persons.

The issue of housing is one of the most acute problems for people affected by the armed aggression against Ukraine, including those returning from illegal deportation. Many of them have lost their homes due to destruction, occupation or the inability to return to dangerous areas. The temporary occupation of the territories where the released people lived makes it even more difficult to find a place to live, as most cannot return home due to the danger or complete destruction of their homes. This leads to social maladjustment, exacerbates economic hardship and creates a significant barrier to integration into society. State or international housing programmes are often inaccessible to such people due to discrimination or administrative obstacles. The problem of refusal to provide temporary housing or shelter is particularly acute, which only exacerbates the already difficult situation of returned prisoners.

45 Since 1 January 2025, the Ministry for Communities and Territories Development has been the authorised body.

46 Response of the MIA to the appeal No. 17172024 dated 09.12.2024; Response of the Ombudsman's Office to the appeal dated 16.12.2024



3.4. Failure of the SCES to fulfil its obligations to issue a release certificate

The failure of the SCES to fulfil its obligations to issue release certificates and pass them on to the police has serious consequences for people returning from places of deprivation of liberty.

According to the order of the Ministry of Justice of Ukraine, the legal grounds for issuing a certificate of release are determined on the basis of reconciliation of data on the length of sentence contained in court decisions, personal files of convicts, as well as accounting and control cards⁴⁷. The procedure for issuing a certificate is part of a comprehensive process that includes verification and confirmation of the correctness of the calculation of the term of the sentence, as well as the execution of court decisions on parole, reduction of the sentence or commutation of the sentence. The certificate of release is issued by the relevant unit of the institution after confirming the length of the sentence and the compliance of the documents certifying the release. It is signed by the head of the institution and the head of the unit, with the convict's photograph attached.

Although the order itself does not provide a list of grounds for refusing to issue such a certificate, it can be concluded that the refusal may be based on a person's failure to comply with the conditions of release, in particular, the conditions of early or conditional release, the absence of the necessary documents, or other circumstances, such as incomplete execution of the sentence or violation of the rules of serving the sentence.

However, in the case of illegally deported prisoners, such a certificate is not issued due to the absence of information about their release, which is caused by the absence of a legal procedure for taking into account the remainder of the sentence served in the territory of the Russian Federation or the temporarily occupied territories of Ukraine. The absence of such a certificate effectively makes it impossible to officially confirm one's release status, which complicates access to important state services, including medical care, financial support and rehabilitation programmes. This has the following consequences:

- Leads to delays or refusals to provide social guarantees;
- Creates cases where law enforcement agencies do not have up-to-date information on the status of such persons;
- Complicates the procedure for registering a person, going through administrative procedures and obtaining other necessary documents;
- Contributes to social isolation and discrimination against those who have been released;
- Makes it difficult for them to adapt and integrate into society.

⁴⁷ Order of the Ministry of Justice of Ukraine of 08.06.2012 No. 847/5 "On Approval of the Instruction on the Work of Departments (Groups, Sectors, Senior Inspectors) for Control over the Execution of Court Decisions in Penitentiary Institutions and Detention Centres": <https://zakon.rada.gov.ua/laws/show/z0957-12#n544>



3.5. The issue of recognising the legal status of a victim of deportation

Given that illegal deportation may constitute a war crime and/or a crime against humanity, an important legal aspect of ensuring rights is the exercise of the right to compensation for damage and, in fact, the granting of victim status to a person.

According to international law, a state or party to a conflict that has committed an illegal deportation is liable for compensation for material and non-material damages. This includes compensation for lost property, disruption of life ties, non-pecuniary damage and other negative consequences of deportation. The UN Basic Principles and Guidelines on the Right to Compensation, Rehabilitation and Guarantees of Non-Repitition⁴⁸ state that victims should have access to effective remedies, including restitution and rehabilitation. The responsibility for compensation may be imposed on the aggressor state, which involves the use of its assets frozen as a result of international sanctions.

Ukrainian legislation does not contain separate legal acts or provisions of law that would establish the specifics of recognising prisoners as victims of crimes against humanity. Of course, it is impossible to ignore the fact that at the time of committing a crime, a person is in the status of a person serving a sentence, they have rights and obligations under Ukrainian law. At the same time, this does not exclude the possibility of this person being a victim in another criminal proceeding.

In the case of a war crime committed against such people, they should be granted victim status in accordance with the general procedure. Taking into account the provisions of Article 55 of the Criminal Procedure Code of Ukraine, a person, including those who were serving a sentence at the time of the war crime of illegal deportation, should be recognised as a victim of such a crime, and the state should take measures to ensure a proper procedure for pre-trial investigation and trial of this fact, granting the status of a victim of a war crime to a person and ensuring reintegration and re-socialisation into society.

One of the main reasons why prisoners deported to the territory of the RF are not recognised as victims of the crime of illegal deportation is the absence of confirmation of the fact of this crime by the relevant authorities. In practice, state institutions, in particular law enforcement agencies, often fail to record or recognise the facts of deportation, which makes it difficult to further recognise victims as victims of a war crime. This creates legal uncertainty, which deprives victims of the right to reparation and rehabilitation, as without official recognition of the crime, it is impossible to conduct a proper legal process aimed at protecting their rights.

48 Resolution adopted by the General Assembly on 16 December 2005, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law: <https://www.ohchr.org/sites/default/files/2021-08/N0549642.pdf>



CONCLUSIONS

There are serious problems related to the illegal deportation of Ukrainian prisoners to the territory of the RF: numerous war crimes have been committed against them, including deportation, torture and ill-treatment, detention in inadequate conditions, restricted access to humanitarian, medical and legal aid, and the absence of access to information about their rights.

A significant number of people were released without documents proving their identity and Ukrainian citizenship, making it impossible for them to stay legally in the RF or return to Ukraine. Many former detainees were re-detained immediately after their release on charges of violating Russian migration laws and held in the TDCFC, where conditions were inadequate: cramped, unventilated rooms, no access to exercise, lack of food and absence of legal support.

The return of prisoners is also complicated. Their routes often pass through third countries, such as Georgia or Latvia, which is accompanied by significant costs, lengthy identification procedures, etc. In many cases, former prisoners have faced discrimination in transit countries, as well as the absence of humanitarian assistance, including basic food and medical care. After returning to Ukraine, former prisoners were often left without state support: access to temporary housing, financial assistance and rehabilitation programmes.

Problems with adaptation in Ukraine are also complicated by bureaucratic obstacles. In particular, due to the absence of certificates of release from the SCES, these people could not confirm their status as deported prisoners, which limited their access to medical, social and legal services. In some cases, they were detained to serve the remainder of their sentence, which was a consequence of the legal unresolved status of deported prisoners. The absence of legislative mechanisms to recognise time spent in the RF or on the temporarily occupied territories as completion of the sentence created additional difficulties.

Thus, the problems associated with the illegal deportation of prisoners, their forced detention in the RF and the issues that arise in the process of return and reintegration are systemic. In order to facilitate their resolution, we provide several recommendations to national authorities below.



RECOMMENDATIONS

- 1.** The return of deported Ukrainian citizens, foreigners and stateless persons who legally resided on the territory of Ukraine and were in places of detention at the beginning of the full-scale armed aggression should be included in Point 4 of the Presidential Peace Formula. Accordingly, negotiations should be held to find a systematic solution for the return from the territory of the Russian Federation of Ukrainian prisoners illegally deported from the territory of Ukraine to the Russian Federation, as well as Ukrainian citizens held in the TDCFC. An ad hoc procedure for the return of former prisoners should be developed with the mediation of the Ukrainian Parliament Commissioner for Human Rights, which would include a clear procedure for verifying individuals and cooperation with foreign diplomatic institutions to issue temporary documents.
- 2.** An effective procedure for issuing a certificate of return should be ensured for Ukrainian citizens deported to the territory of the Russian Federation. It could be introduced through a pilot government project to ensure that such documents are issued in Ukraine.
- 3.** In the case of Ukrainian citizens staying in the buffer zone on the border with third countries (Georgia, Latvia), Ukraine's foreign diplomatic missions should ensure an immediate procedure for identifying the person to reduce the time spent in this zone.
- 4.** At the national level, a transparent mechanism should be ensured to take into account the length of time a deportee has served in detention facilities in the Russian Federation, including the TDCFC, as well as the time required to arrive at the border with Ukraine, and to stay in transit and the buffer zone. For this purpose, it is advisable to develop and adopt a relevant law.
- 5.** The Ministry of Justice should develop and implement a programme of support for Ukrainian citizens, which should include the provision of temporary accommodation, basic food, medical care and psychological support for the rehabilitation of persons who have been deported, tortured or otherwise subjected to violence.
- 6.** Develop methodological recommendations for law enforcement agencies and the SCES on the algorithm for proving and establishing the fact of illegal deportation of a person, as currently, the absence of unambiguous interpretation of the criteria and training on their application in practice in some cases leads to the absence of a statement of such a fact and, accordingly, deprivation of social guarantees and assistance to victims.

